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LETTERS  
CONCERNING  
THE  
EAST-INDIA  
Company.

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Printed in the Year 1676.

1877

CONCERNING

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Printed in the Year 1876.

*A Letter from a Countrey Gentleman, to a  
Barrister of the Inner Temple,  
LONDON.*

S I R,

**T**He last Post brought me news of such *Factions* and *Divisions* in the *East-India Company* as (my Friend saies) have shaken their Credit; and adds, that one of the *Factions* had induced his Majesty to interpose by *Letters* in the *Election* of their *Governors* and *Committees*, and to prohibit their choice of some persons by name: I can easily conclude that those *Letters* will not extinguish the Strifes amongst them; perhaps they will make every man jealous of his *Liberty* and *Property*, but I am not able to resolve what is best for me to do upon it: All my *Stock* for my younger *Childrens* Provisions, I placed in that *Companies* hands at *Interest*, and have their *Common Seal* for it, believing it the best *Security* now left in *England*, presuming that I might have it upon demand, as my occasions should require; But I hear that many of the *Company's Creditors* have called for their *Money* from them in all haste; and a *Neighbour* of mine puts many *Seruples* in my head about my *Security* by their *Common Seal*, and questions their *Standing* when the *Parliament* shall sit: I pray make Enquiry for me into the whole *Affair*, and let me have your *Opinion* in

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*Law,*

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*Law*, whether my Security be good; and your Advice in Prudence, whether I shall Trust my *Money* any longer in the *Company's* hands: Your Pains in it shall not be lost, nor your Kindness forgotten by,

S I R,

Your most, &c.

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*The Barrister's Answer.*

S I R,

**Y**OUR Demand of my Opinion of the Sufficiency of the *East-India Company's Common Seal*, to Secure your *Childrens Money*, hath made me peruse their *Charter*, and Discourse a Principal *Merchant* amongst them about their *Trade*, and their present Distractions; but what hath passed between the *Court* and them ought to be like a *Noli me tangere* to one of my Profession; and I know you will excuse me if I say nothing of it; but to advise about your *Money* is my Duty.

I suppose you were induced to put your *Money* into that *Company's* hands, by the Riches and the Repute of the Members of it; believing that you had not only three or four  
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able men bound for your Security, but perhaps a hundred of the most Wealthy and Creditable Traders of all *England*: I know they were cryed up as infallible Security, and *Lenders* thought themselves obliged to the *Company* to accept their *Moneys at Interest*: this Reputation was such a Net, as caught the Fish by Sholes, and enabled them to borrow about 600000 *ll.* every *Lender* thinking he had so many Rich men in his Chest, when he had the *Company's Seal* there; but I am afraid you will scarce Credit me, if I tell you that their *Seal* is less Security for your *Money*, than the Word of any Sufficient Man in the *Company*; For their *Common Seal* binds not any one of the *Company's Persons*, nor *Estates*, either real or personal; you can neither Arrest, nor Implead great nor small amongst them upon their *Common Seal*; and if you should demand your *Money* of any particular person; he would but laugh at you, and bid you go to the *Company* with your *Seal*, for he owes you not a Groat.

'Tis true, the *Company* may be Sued (if their *Creditors* please) for 500000 *ll.* or 600000 *ll.* or more this *Term*, and in two or three *Terms* they may have *Judgment* against the *Company* upon their several *Seals*, but they can have no Execution against any Member of the *Company*, nor his Goods; they may take the *Company's* Goods and Chattels in Execution if they can find any; they might extend the *Company's* Land, if they had any; but who can tell where to seize Goods of the *Company's* to pay the *Creditors* five Shilling per Pound? Yet, admitting there were Goods of greater value belonging to the *Company*, when the Sutes are Commenced they may provide for their own Members by a Divident, and every one of them have his own; and their *Creditors* never a penny unless they can catch it in the *Indies*.

The *Creditors* of the *Company* of *Grocers*, and *Merchant-adventurers* thought those *Companies* *Seals* as good as yours, for

for far above a 100000 *l.* value, and the Members of either *Company* are Rich enough; yet they laugh at their *Creditors*, and have not the Honesty, as I can hear, to offer them *Half a Crown* in the *Pound*.

Yet I doubt your Case is more Hazardous, the *East-India Company* Trading wholly with their *Creditors Money*, and running no risk of their own: 'tis seldom that they have much above 600000 *l.* in value in their *India Factories*, and upon the *Seas* at one time, which is all their *Creditors Money*; and if their *Factories* and Goods should be destroyed by the *Indians*, or *Isfidsels*, and their *Ships* lost, or taken in *Warr*, or by *Pirates*, they can secure their own Stock to that Value, by a speedy Divident of what they have here; and then bid their *Creditors* find a thing in the Clouds, called their *Company*, to Arrest for their *Moneys* at the best; you are at the Mercy and Will of you know not whom for your *Moneys*, and the *Company* may be bold at *Sea* and *Land* to make *Warr* against whom they please in the *Indies*, to build *Forts* and *Castles*, and to take Mens Persons and Goods there by force of Arms; if they prosper, they make 20 or 40 *per Cent.* of your *Moneys*, and pay you 6 *per Cent.* whilst their *Company* lasts; and if they miscarry in any kind, they cannot loose, if they keep but as much in *Bank* of *Money* and *Goods* as will answer their particular *Stock*.

One thing I cannot omit to observe out of the *Company's Patent*, That the *King*, who impowered them to use a *Common Seal*, thought it not sufficient Security to him for six *Months* for his *Customes* and *Duties* that should be payable for their Goods Imported, he grants that his Officers shall give them two several six *Months* for the Payment of their *Customs*, they giving good and sufficient Bond with *Surety* to the use of Us, our Heirs, and Successors for the true Payment of the same; (so are the words) and if you and your Counsel had been as Cautious

tionous as his *Majesty* and his *Counsel*, you would have had some of the *Company's Bond* and a *Surety* too, before you had parted with your *Money*: But I believe they had never been such *Bankers*, as to have deserved *Court-Letters* about their *Officers*, if they had been forced to give their *Bond* with *Surety* for their many 100000 *ll.* they have borrowed; perhaps the great *Usurers* of that *Company* would not then have put out their own *Moneys* upon *Bond Security*, and taken up yours to Trade with.

It was pity the *Lombord-street Bankers* had not a *Pattent* with a *Common Seal*, and to have been made a *Company*, and by your Example the People might have lent them *Millions* upon their *Seals*, and they might have lent it again for double or trebble Interest, and payed single as long as they had Received double; and when they had failed, their *Persons* and *Estates* had been secure without fear of *Bayliffs*, or *Statutes of Bankrupt*.

If this seem sharp upon you, excuse me, you deserve it, that would not Advise with me before you parted with your *Money*, when you know it would have cost you nothing: but perhaps you will hope that this *Company* will be more honest than some others, or at least that their prospect of Gain in this Trade, will make them pay well, that they may continue their vast profit of other mens *Money* without hazard.

I confess this might quiet your mind a little, 'till you could get some *Security* for your *Money*, if this *East-India Company* had any firm Legal Foundation, or any probability of standing and enjoying the sole Trade of half the World, as now they do, but see their *Pattent* on which they stand, which grants to the *Governors and Company*:

*That they and their Successors, &c. shall for ever hereafter use and enjoy the whole intire and only Trade and Traffick, and the whole entire, and only Liberty, Use and Priviledge of Trading,*



ding, Trafficking, and using the Trade of Merchandize to & from the East-Indies, &c. And farther saith the Patent, by Vertue of Our Prerogative Royal, which we will not in that behalf have argued, or brought into question, we straightly prohibit, &c. all the Subjects of Us, our Heirs and Successors, that none of them do directly or indirectly, Visit, Trade or Traffick, or adventure by way of Merchandize, into, or from any of the East-Indies, &c. except the said Governor and Company, &c. under the penalty of Our Indignation, and the Forfeiture of all Goods whatsoever so to be brought into this Realm; or any of our Dominions, the one half of all the Forfeitures to be to Us, our Heirs, &c. and the other half is granted to the Company: and all and every Offenders therein, for their Contempt to suffer Imprisonment during Our pleasure, and such other Punishment as to Us, our Heirs, &c. shall seem meet, and not to be delivered till every of them be bound to the Governor in 1000 ll. at least, never to Sayl or Traffick into the said East-Indies, &c. And we do grant to you the Governor, &c. to Seize upon the Persons of all such English, or any our Subjects in the said East-Indies, which shall Sayl thither, or Inhabit there without their leave &c. or that shall disobey their Orders, &c.

I need not tell you (that are of the Commission of the Peace, and have Read the Statutes) the Invalidity of this Patent; you have Read (I am sure) the Statute of 21. Jac. cap. 3. whose preamble contains a Judgment in Parliament; That all Grants of Monopolies are against the Antient and Fundamental Laws of this Kingdom.

And our Law-Books define a Monopoly, to be An Institution or Allowance by the King by his Graunt, Commission, or otherwise, to any person, body Politick or Corporate, of or for, the only buying, selling, or using of any thing whereby any person or persons are sought to be restrained of any Freedom or Liberty which they had before, or hindred in their Lawful Trade or Traffick.



I must light a Candle to the Sun if I should endeavour to evince the Governor's and Company's Patent to be a Grant of a Monopoly: I may call it the Monopoly of Monopolies, that restrains almost all English men from their lawful Visiting, and Trafficking into so many parts of Asia, Affrica, and America, as includes half the world.

One such Patent more for the sole Trade of the other half of the world, to such another Number of men, or to half a hundred of the Courtiers (and Sir John B. to be the first Governor) might raise some Millions by the year for Licences to Traders, to Sail and Traffick to several Countreys; besides the Fines and Forfeitures which would amount to much more; and two such Companies might well allow to the Crown 120000 ll. per. annum, and excuse our Land of all Subsidies, and Taxes for ever.

'Tis worth the observing; That the words of the Statute are of as large extent, as the wits of men could invent, to prevent the Restriction of any Liberty of Trade whatsoever; And last Penalties upon the Grantees, injured by the Statutes, should not deter them to accept such Grants from the Crown: The Statute provides, That all persons Bodies, Politick and Corporate, which then were, or thence after should be, should stand and be disabled and incapable to have, use, exercise or put in use, any such Monopolies. It makes an incapacity in every body to take any such Graunt of a sole Trade, to restrain the Freedom of the People: Now the Governor and the Company I speak of, being incapable to take such a Patent; do you judge, whether this Company hath any Subsistence, or Being in Law, and thence you can collect, the true value of their Seal, that hath passed for so much Money, and the probability of their standing.

But this Patent ought to have some other name than a Monopoly: It Creates Forfeitures of the Estates of all English-

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men that dare dwell in, or Visit, or Trade to half the world: It gives power over their Persons to Imprison and keep in Quads during pleasure: It Asserts or Creates an Arbitrary Power in the Crown of punishing English-men by Discretion after they are Imprisoned, and their Estates seized: It subjects all English-men that accept for necessities sake of Employments under the Governor and Company to be punished at the will of them and their Servants according to Discretion, not excepting Life it self, either from the Crown in the first place, or the Company in the next.

I cannot but wonder what Lawyer drew this Patent: Every puny Adooter in our Halls knows, That no Forfeitures of any kind can grow by Letters Patents: for it was adjudged in the 41. Eliz. fol. 125. Case de Londres, King Henry the 6th granted to the Corporation of Dyers in London, That every Cloth Dyed with Logwood should be Forfeited; and their Charter containing this Forfeiture, was judged, against the Law of the Land, and Magna Charta.

Every Lawyer also knows, That no Patent can restrain the Liberty of the Subject in any thing. In the 41. Eliz. Dawkins and Hurds Case. The Merchant-Tylers having power by Ancient Charter to make Ordinances for their Society, Ordained; That every Brother of that Society should put one half of his Cloaths to be dressed by some Cloth-worker free of the Company upon the Forfeiture of ten Shillings: That Ordinance was adjudged to be against the Law; for that Every Subject hath a Freedom to put his Cloaths to be dressed by whom he will. King Philip and Queen Mary granted a Patent to the Town of South-hampton, That all Adamsey wines brought into this Realm should be Landed only at their Port, with a Prohibition; That no person should do otherwise under pain of trebble Customs: And it was Resolved by all the Judges, That the Grant being in Restraint of the Freedom of the People for Larding wines,

was against the Law and Great Charter, and meerly void.

I protest I am astonished! Could any man in a Gown, Solicitor or Attorney General be ignorant, That every English-man hath such a Property in his Estate, Privileges, Liberty, Person, Limb and Life, That none of them can be subject to be Seized, Forfeited, or any way destroyed, but by force of Laws made by the Free Consent in Parliament: Is not this the Distinction between the Turkish and French Vassals and Free-born English-men? I say again, how durst any Lawyer draw this Patent?

You see now, I am a little Zealous in my own Profession of the Law, being Sworn to it: But I doubt I shall put you into a worse Fright about the Seal for your Money, if I should tell you that I am afraid, That the Governor and Company I talk of, having Petitioned for, and accepted such a Patent, are in danger not only to pay trebble Damages to all whom they have Abused, Hindred, Grieved, or Disturbed in their Trades to the Indies by Colour of their Patent, according to the Statute of 21. Jac. cap. 3. (and perhaps such Damages may amount to some 100000  $\text{£}$ . at least) But they are also in hazard to be Punished and Fined by the Common Law, and especially by Parliament, for Seeking for, Propounding and Accepting such a Patent.

Doubtless every Offence against the Fundamental Laws is punishable: It was one of the Articles against William Dela- pool, Duke of Suffex, That he had procured from the Crown divers Liberties in Derogation of the Common Law: See Rol. Parl. 28. Hen. 6. Num. 30. In the 5th Ed. 3. John Peachy of London was severely punished for procuring a Patent for sole Vending of Sweet Wines. You know what was done to some in King James and the late Kings time for petty Restraint procured upon Trade.

Yet I must confess and farther tell you, That the Security is the worse, because of the Fear of such Questioning in

*Parliament* may at any time make the *Governor* and *Company* Dissolve their *Corporation*; which they may do any *Spring*, by omitting to choose a *Governor* and *Committees* between the tenth and last of *April*: And as the *Patent* is drawn, Restraining them from all Powers not therein expressed.

I doubt such an Omission, after a Divident amongst themselves, to save their own Stock, may Dissolve the *Corporation*, if it had been well Founded by a *Legal Graunt* of Powers, and *Priviledges*, which were in the *Kings* power to Give: But the *Patent* being such; as you may from hence collect, I should trouble you in vain, to shew you how the *Company* depends upon the *Kings* pleasure; And upon what easie terms he may Null it if they offend him.

Do not suffer any to deceive you with hopes of this *Company's* standing, under pretence of some benefit that accrews to the *Crown* by *Customs*, or the Necessity of a *Company*; having *Forts* and *Factories* in those parts of the *World*, which could not be without a *Governor* and *Company*.

I that am no *Trader* know, That the *Parliament* could if it be a useful Trade to *England* (which I am no proper Judge of) have established Legally such Rules whereby the Trade might have been managed, and *Factories*, *Forts* and *Castles* maintained; and the Liberty of Trade might have been preserved to every *English-man*, and five times the Trade gained; and the price of our own Manufactures of Cloath and others, advanced; by the multitude and freedom of Buyers; and the price of the Goods Imported much lessened to the *English*, and much more Trade with these Commodities gained into other parts of the world. An Instance of this, is well known in the *Turkey Company*, where no Merchant can be excluded or denyed to Trade with their particular Stock; yet the same pretences might have been for Restraint, that some do vainly suggest in this.

I have now done like one that loves you ; And have stolln time from my *Clyents* in the mid'st of *Term* to Answer your Desires at large. You may see by this, what Security you have for your Money by the *Seal* ; The Prudential part, how to come by it, I must refer to your self, your share of Prudence being far Superior to that of,

S I R,

*Your most Faith-*

*ful SERVANT.*

S I R,

I Forgot to Observe to you, a thing Remarkable in my Opinion: It seems, many persons of great Quality, and eminent Merchants were Sutors to *Q. Eliz.* in the 41. of her Reign to be made a Body Corporate by the Name of the *Governor and Company of Merchants Trading to the East-Indies*, and a *Patent* was granted accordingly; But no Prohibition is granted for others to Trade thither under the Forfeitures, Pains and Penalties, nor any grant of those extravagant Illegal Powers, unto which this present *Company* pretends: See the care of that Age to preserve Freedom and Property.

F I N I S.